

Remarks

Entry of this amendment and favorable reconsideration of this application in view of the remarks below and the amendments to the claims is respectfully requested.

Applicants note that the 112 rejections have been withdrawn and that only rejections under 35 USC 102(b) and 103(a) remain. Claim 1 has been amended to add the limitation on the amount of surfactant as discussed in the prior response.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin et al. US Patent 5,496,845. The basis of the rejection is that the instant claimed composition is disclosed in col. 1-4 and Table 1. This rejection is respectfully traversed.

The instant claimed invention is a sprayable insecticidal composition containing specific amounts of certain ingredients. It is the USPTO's position that the suspension concentrate disclosed by Martin is the same as the instant claimed sprayable insecticidal composition however a comparison of the examples in each disclosure show that the compositions clearly are not the same. Examples 1A-D, F and G of the instant application contain chlорfenapyr, wetting agent, dispersing agent (surfactant), calcium chloride, Kaolin clay and Example 1E additionally contains calcium silicate. Note that there is from 20% to 67.2% Kaolin clay present, acting as both the abrasive and the inert carrier. The examples of Martin contain arylpyrrole compound, dispersing agent, steric stabilizer, suspending agent, thickening agent, antifreeze agent, antifoam agent, preservative, acid and water. These certainly are not the same composition. The instant claimed composition does not even contain water, much less some of the other components and further contains a much different amount of clay.

Claims 5 and 6 that call for a solid inert carrier and for the solid inert carrier to be Kaolin clay are clearly not disclosed in the cited art. Furthermore, compositions containing only the components of the instant invention are not disclosed in the cited art.

Reconsideration is respectfully requested.

Claims 1-8, 16, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lovell, US Patent 5,187,184. The basis for the rejection is that the instant claimed composition and method is disclosed. This rejection is respectfully traversed.

Lovell also relates to suspension concentrate formulations containing either water or organic solvents as major components. The levels of clay or silicates is much lower than in the instant invention. Lovell does not disclose the composition of the instant invention for the same reasons set forth above in the prior rejection.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaaf et al EP 0821876 or Martin et al 5496845 in view of McLeod GB 2314774 and Knight et al WO 94/74347. The basis of the rejection is that it would have been obvious to one of ordinary skill in the art to use the teaching of McLeod/Knight in a Schaaf sprayable composition to obtain the composition of the instant invention, and further, no showing of unexpected results has been made. This rejection is respectfully traversed.

As discussed above, neither Schaaf et al or Martin et al discloses or suggests the composition of the instant invention which has a higher amount of abrasive and at the same time fewer components than the compositions disclosed by Schaaf et al or Martin et al.

Reconsideration is respectfully requested.

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1. (Twice Amended) A sprayable insecticidal composition which comprises an insecticidally effective amount of an insecticide; about 3% to about 9% of an abrasive; [a low level of] about 2% to about 15% surfactant; an inert carrier; and optionally a film-forming inhibitor, wherein the film-forming inhibitor is an agent to inhibit the formation of a film.

If the Examiner believes a telephone call to the undersigned would favorably advance the prosecution of this application or narrow any outstanding issues, he is respectfully invited to call the undersigned at the telephone number indicated below.

Respectfully submitted



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CERTIFICATION UNDER 37 CFR 1.8

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date written below with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

August 23, 2001
Date

Ann Giovannelli
Ann Giovannelli
